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April 11, 2025

Via ECF and Email

The Honorable Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

MEMO ENDORSED

Re: *Jiin Ko v. Swiftly Systems, Inc., et al*, Case No. 25-CV-1833 (KPF)

Dear Judge Failla,

Plaintiff Jiin Ko moves to redact the portions of the transcript of the preliminary injunction hearing presented to the Court in highlights. These highlights reflect instances where the subjects of Ms. Ko's sealed declaration were referred to either by name or by identifying title. Prelim. Inj. Hr'g Tr. at 22:23, 31:25; *see* ECF Nos. 24, 36. The limited redactions that Plaintiff proposes will prevent the hearing transcript from becoming "a vehicle for improper purposes"—namely, Swiftly's retaliation against or intimidation of the potential witnesses identified. *See Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 142 (2d Cir. 2016) (citation omitted).

Here, as with Ms. Ko's request to seal her Supplemental Declaration, the weight of the presumption of access to the document is "relatively modest": Plaintiff's redaction request "focuses only on redactions of certain names and limited, targeted information . . . As a result, the public will be able to read and understand each document even with the redacted information." *Citgo Petroleum Corp. v. Starstone Ins. SE*, No. 1:21-CV-389-GHW, 2023 WL 7497858, at *2 (S.D.N.Y. Nov. 9, 2023); *see also United States v. UCB, Inc.*, No. 14-CV-2218 (TPG), 2017 WL 838198, at *5 (S.D.N.Y. Mar. 3, 2017) (permitting the redaction of a name due to fear of retaliation, where "[t]he public can still glean from this opinion the substance of [plaintiff's] arguments and the manner in which [the court] handled them"). And as with Ms. Ko's request to seal her Supplemental Declaration, "[t]he privacy interests of innocent third parties . . . should indeed weigh heavily," given that several of Ms. Ko's former colleagues have told her that they fear for their jobs if they speak up—the very fate that Ms. Ko has suffered. *See Citgo Petroleum*, 2023 WL 7497858, at *2 (quotation omitted) (permitting redactions where third parties had stated that they feared for their safety); ECF No. 24 ¶¶ 9-44. *See also Matthews v. N.Y. State Dep't of Corr. & Cmty. Supervision*, No. 9:17-CV-503, 2023 WL 2664418, at *4 (N.D.N.Y. Mar. 28, 2023) (permitting the redaction of the identities of nonparty individuals who "may be subject to retaliation if their identities are revealed in the papers").

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The need to protect potential third-party witnesses outweighs the presumption of public access to the redacted portions of Plaintiff's declaration. Plaintiff therefore respectfully requests that the Court authorize the redaction of the highlighted portions of the preliminary injunction hearing transcript. Plaintiff has conferred with Defendants, and Defendants do not oppose the proposed redactions.

Respectfully submitted,

/s/ Russell Kornblith

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cc: Counsel of record via ECF

Application GRANTED.

The Clerk of Court is directed to terminate the pending motion at docket entry 63.

Dated: April 16, 2025
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE